

**To:** Timothy McCarthy[tmccarthy@cclawmn.com]  
**From:** Chow, Kevin  
**Sent:** Tue 11/19/2013 3:33:44 PM  
**Subject:** RE: Meleen Follow up

Tim,

I just left you a voicemail. I talked to our financial analyst who is asking whether there are 2012 tax returns that Meleen can supply in addition to the IRS debt info you've just sent me, as the latest returns she has are from 2009-2011 only. Please let me know whether we can get the 2012 returns in order to do a complete ability-to-pay analysis. Mr. Meleen may make a confidential business information claim for the tax returns.

You may have received an email yesterday from the ALJ's office asking what dates the parties are available for a call with Judge Gunning. I'm generally open except for Dec. 3, 12, and 13. On Dec. 11, late afternoon works best for me. Please let me know what works for you. I will have Erin participate as well.

Kevin

(312) 353-6181

**From:** Timothy McCarthy [mailto:tmccarthy@cclawmn.com]  
**Sent:** Monday, November 18, 2013 4:21 PM  
**To:** Chow, Kevin  
**Subject:** RE: Meleen Follow up

Kevin, I am attaching the following;

1. UST Cathodic Protection System Evaluation from October 4 and 6, 2012 (not sure if you had this);
2. Letter to Meleen from IRS dated 11/30/11 indicating the amount owed of \$520,731.63 and the scheduled payments of \$1,000, then \$1,750, then \$3,750;

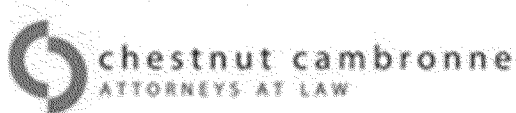
**3. Letter to Meleen from IRS dated 10/07/13 – Annual Installment Agreement Statement from July 9, 2012 to July 8, 2013;**

**4. Letter to Porland from IRS dated 10/07/13 – Annual Installment Agreement Statement from July 9, 2012 to July 8, 2013.**

**It is my hope that these documents will assist the EPA in understanding that Meleen Corp faces a significant financial burden with the IRS. Let me know if you need further documents in this regard. Tim**

Timothy P. McCarthy

Attorney



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**From:** Chow, Kevin [<mailto:chow.kevin@epa.gov>]  
**Sent:** Thursday, November 14, 2013 4:42 PM  
**To:** Timothy McCarthy  
**Subject:** RE: Meleen Follow up

Tim,

First of all, thank you for the results of the cathode protection system evaluation. They show the test was conducted on June 6, 2013, and the CP expert signed off on it on June 10, 2103. The system passed.

With regard to your follow-up statements:

It is my understanding that Meleen Corp. owns the parcel containing the USTs, but the parcel is within concurrent boundaries of the county and the reservation. EPA, rather than the Minnesota Pollution Control Agency (MPCA), administers the UST program within the reservation boundaries, which includes Onamia.

Scott Hansen is an authorized and credentialed agent of EPA for purposes of conducting UST inspections and obtaining information for use by EPA. His role is to assist EPA in carrying out EPA's UST compliance monitoring duties under the Resource Conservation and Recovery Act (RCRA). As a federally credentialed UST inspector acting on behalf of EPA, he cannot act as an agent of the tribe and has no authority to carry out any tribal programs. All enforcement and enforcement decision-making authority on UST matters within the reservation boundaries remains solely with EPA; neither the tribe nor Mr. Hansen have such authority. All inspection and fact findings by Mr. Hansen are forwarded to EPA for review, after which EPA, and only EPA, initiates any subsequent enforcement action. EPA regularly reviews Mr. Hansen's work quality and has the authority to suspend or revoke Mr. Hansen's federal credentials for any acts or omissions outside the scope of his authority.

EPA is unaware of any proprietary information that Mr. Hansen has collected from Meleen Corp. EPA's records in this matter do not indicate any sales receipts, sales figures, or other business or financial information collected by Mr. Hansen or EPA's own inspectors (other than

tax returns submitted to EPA by Mr. Meleen to allow EPA to analyze Meleen's claim of inability to pay a penalty). Typically, sales or financial information is not collected during inspections unless the facility is using a release detection method that requires inventory control, manual tank gauging, and similar information to be collected. Meleen Corp., however, does not use such release detection method and has not gathered or submitted such information. All information thus far obtained by Mr. Hansen pertains solely to Meleen Corp.'s degree of compliance with UST regulations, as required by his job duties to EPA. EPA, not Mr. Hansen or the tribe, followed up with a phone call, an information request, and a pre-filing notice to Meleen Corp., providing Meleen with several opportunities to present additional information or to correct any errors. EPA received no responses. EPA thus has no basis to question the accuracy, veracity, or impartiality of the inspection findings. EPA therefore remains confident in the objectivity of Mr. Hansen's fact gathering in this matter.

As we discussed during our conference call on November 12, 2013, I am attaching the release history reports that Meleen's facility manager faxed to Erin which form the basis for Count III in the complaint. Let me know if you have questions about the attached.

We look forward to the tax liability documents, as well as the more up-to-date annual line tightness and annual leak detection testing documentation that Mr. Meleen mentioned on the call. Once we have seen that information, we may have a basis for more settlement discussion in depth. I reiterate that Mr. Meleen may request the tax liability information he is sending to us to be treated as Confidential Business Information by EPA.

Kevin

(312) 353-6181

**From:** Timothy McCarthy [<mailto:tmccarthy@cclawmn.com>]  
**Sent:** Tuesday, November 12, 2013 2:16 PM  
**To:** Chow, Kevin  
**Subject:** Meleen Follow up

**Kevin,**

**you mentioned that the Meleen Corporation property, which contains the USTs,**

was on Tribal land, specifically the Mille Lacs Band of Ojibwe land. I don't think this is the case. The Meleen Corp land is in Mille Lacs County.

Meleen Corporation is very reluctant to provide any proprietary information to Scott Hansen, a Tribal employee and the newly delegated inspector for Meleen. As Mr. Meleen has previously shared with you, the Tribe owns and operates a gas station 3 miles north of the Meleen gas station. This is Meleen's primary competitor. It seems a conflict (or at least the appearance of one) to have Mr. Hansen involved in this at all.

Let me know your thoughts on this issue. Tim

Timothy P. McCarthy

Attorney



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